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International residual mechanism for criminal tribunals

Construction of a new facility for the International Residual Mechanism for Criminal Tribunals, Arusha branch

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the construction of a new facility for the International Residual Mechanism for Criminal Tribunals, Arusha branch (A/66/754). During its consideration of the report, the Committee met with representatives of the Secretary-General, who provided additional information and clarification.

2. The report of the Secretary-General was issued pursuant to General Assembly resolution 66/240, in which the Assembly requested the Secretary-General to submit to it, no later than at the second part of its resumed sixty-sixth session, a report providing detailed information on a comprehensive project management plan for the construction, in Arusha, United Republic of Tanzania, of the proposed new facilities for the archives of the Mechanism, including programmatic and functional requirements, a conceptual design and key milestones from design to construction to occupation. The report outlines the functional and programmatic requirements and current status of the planning phase, and provides information on project funding, administrative arrangements and the project implementation methodology and timeline.

II. Background

3. The Advisory Committee notes that, pursuant to Security Council resolution 1966 (2010), the International Residual Mechanism for Criminal Tribunals was established with two branches, which are to commence functioning on 1 July 2012 (branch for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for

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Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 in Arusha) and 1 July 2013 (branch for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 in The Hague). In its resolution 66/240, the General Assembly appropriated an initial amount of $3 million for the overall construction, in Arusha, of the proposed new facilities for the archives of the Arusha branch of the Mechanism and authorized the Secretary-General to commence the conceptual design phase of the project.

4. The Advisory Committee recalls that the Mechanism will engage in (a) continuous activities, including witness protection, tracking of fugitives, supervision of enforcement of sentences, archive management and assistance to national prosecution authorities; and (b) ad hoc activities, consisting primarily of the conduct of trials, appeals, preparatory activities or other judicial activity falling under the jurisdiction of the Mechanism (see A/66/600, paras. 72, 73 and 75).

5. The Advisory Committee further recalls that, in its resolution 66/240, the General Assembly authorized a staffing component for the continuous activities of the Mechanism comprising 97 posts, 67 of which were established for the biennium 2012-2013. The remaining 30 posts are to be covered through the "double-hatting" of existing staff of both Tribunals who, as from 1 July 2012, are to perform functions related to the operation of the Mechanism in addition to their current functions at the Tribunals, at no additional cost. Upon completion of the mandates of the International Criminal Tribunal for Rwanda and International Criminal Tribunal for the former Yugoslavia, the Mechanism will require its own administrative component to provide all the administrative support required to carry out its substantive functions (see A/66/600; see also para. 11 below).

III. Functional and programmatic requirements

Site requirements

6. The Advisory Committee notes from paragraph 6 of the report of the Secretary-General that cooperation between the Mechanism and the Government of the United Republic of Tanzania regarding the proposed new facility has been excellent to date. The host country has agreed to provide land and any necessary connections to facilities, such as electricity, water, drainage and sewage, at no cost to the United Nations. The Committee further notes from paragraph 18 that, for security reasons, the facility should not be constructed in the centre of the city, but rather in an undeveloped area, segregated from other buildings and commercial facilities. **The Advisory Committee commends the Government of the United Republic of Tanzania for its cooperation in providing land and the necessary connections to facilities at no cost.**

7. The Advisory Committee notes from the report of the Secretary-General that the proposed new facility will serve as the home of the Arusha branch of the Mechanism and house the archives and records repository; a courtroom; a reading room and information area; office space for the staff of the Mechanism; a data and telecommunications centre; and common areas. The minimum amount of land required for the facility is approximately five acres. Table 1 of the report indicates that a total gross building area of 4,940 square metres is being proposed. **The Advisory Committee takes note of the proposed overall site requirements for the new**

facility for the Arusha branch of the Mechanism and requests that the Secretary-General further engage with other suitable entities in Arusha to explore the possibility of co-locating in order to share common services and/or space, in particular courtroom space, so as to reduce overall requirements and costs.

8. The Advisory Committee recalls that, in its resolution 1966 (2010), the Security Council emphasized that, in view of the substantially reduced nature of the residual functions, the International Residual Mechanism should be a small, temporary and efficient structure, whose functions and size would diminish over time, with a small number of staff commensurate with its reduced functions. **The Advisory Committee therefore recommends that the Secretary-General be requested to provide, as part of his report to the second part of the resumed sixty-seventh session of the General Assembly, comparative cost information per square metre for a temporary and a permanent structure for the new facility for the Arusha branch of the Mechanism.**

Building requirements

9. The Secretary-General indicated in his report that a requirement of 2,190 square metres is being proposed for the specialized areas of the new facility, which include the archive and records repository, courtroom, reading room and information area, data centre, security command centre, small cafeteria and a medical clinic. A 30 per cent circulation factor (pertaining to areas required for corridors, lobbies, entryways) has been applied to the space requirements (see A/66/754, annex I (b)).

10. With regard to the unconditioned area (required for parking and cafeteria outdoor seating), a total requirement of 1,700 square metres is being proposed (see A/66/754, annex II). Upon enquiry, the Advisory Committee was informed that the space requirements for vehicle parking fell within the range of vehicle space utilization at United Nations duty stations and had been calculated based on standard architectural design guidelines.

11. According to the Secretary-General, the total requirements for office space include net area requirements for 90 staff amounting to 751.5 square metres (see para. 12 below). A 30 per cent circulation factor was applied, as well as an additional 30 per cent common area factor (required for local meeting spaces, small conference rooms, shared filing space and common printer and photocopier space), for a total office space requirement of 1,270 square metres. A 20 per cent gross factor (required for mechanical and electrical rooms, elevator shafts, stairways and exterior wall thickness) was also applied to the office and specialized space requirements. Upon enquiry, the Advisory Committee was informed that the three additional factors applied to the space requirements, namely, the circulation factor, common area factor and gross factor, did not overlap and were in line with industry standards. They had been applied to recent United Nations projects such as the capital master plan and the new office facilities at the United Nations Office at Nairobi and the Economic Commission for Africa.

12. The Advisory Committee was informed that the Mechanism required 56 staff members to perform its continuous functions. In addition, approximately 34 administrative staff would be phased in once the two existing Tribunals have closed. The Committee notes that the total figure of 90 staff is a best estimate used for space planning purposes only. In that connection, the Committee further notes that the General Assembly, in paragraph 10 of its resolution 66/240, approved 44 posts for the continuous functions of the Arusha branch of the Mechanism. With regard to the

ad hoc activities of the Mechanism, the Committee was also informed, upon enquiry, that the new facility would be required to absorb approximately 80 staff to support one trial. The Committee was further informed that accommodation for the ad hoc staff would be provided through the use of shared common areas within the facility, without increasing its overall size. **The Advisory Committee urges the Secretary-General to ensure that the final space requirements for the new facility reflect the actual number of staff needed to perform the functions of the Mechanism.**

IV. Current status of the planning phase

Administrative arrangements

13. In his report, the Secretary-General stated that the Registrar of the Mechanism is responsible for the day-to-day oversight and decision-making processes related to the construction of the proposed new facility. The Registrar coordinates closely with the key stakeholders, such as the Office of Legal Affairs, the Department of Safety and Security, the Office of Information and Communications Technology and the Office of Central Support Services. The Overseas Property Management Unit of the Office of Central Support Services is responsible for providing overall guidance and support in all aspects of project implementation, and for providing technical advice regarding the planning, the design and the construction phases of the project. Additionally, the Office of Central Support Services will advise the Mechanism on best practices within the United Nations system and the lessons learned from similar capital improvement projects. **The Advisory Committee stresses the continued importance of full consultations with all relevant stakeholders throughout the entire life cycle of the project.**

14. The Secretary-General further indicated that, while the Registrar of the Mechanism is responsible for the project overall, the technical activities associated with procurement and recruitment will be undertaken by the administrative offices of one of the two Tribunals, within the delegated authority under the United Nations Financial Regulations and Rules. Upon enquiry, the Advisory Committee was informed that the Mechanism intended to recruit a dedicated on-site project manager at the P-4 level to augment the existing resources in the area of project, design and construction management, to be funded under general temporary assistance within the project budget. The Committee notes from the report of the Secretary-General that the main responsibilities of the project manager are to assist and advise on the overall management of the project; manage the third-party contractors and consultants; analyse planning, design and construction strategies; develop terms of reference; and develop a risk management plan. Upon enquiry, the Committee was informed that the project manager would be responsible for identifying possible risks relating to the technical, contractual, resource, governance and end-user aspects of the project during the early stages of design and construction. In the view of the Secretary-General, and bearing in mind lessons learned from the construction of the new office facility at the United Nations Office at Nairobi, appointing a project manager was the best way to avoid and/or mitigate risks.

Project implementation methodology and timeline

15. It is proposed that the project employ the design-bid-build method of design and construction, which entails hiring an architectural design firm to fully develop

and define project requirements vis-à-vis contract documents, then hiring a contracting firm to carry out the construction work. Upon enquiry, the Advisory Committee was informed that the primary advantage of the design-bid-build contract methodology was that it afforded maximum control and the ability to mitigate the risks incurred by the Organization, especially during the early design stages of the project. The Committee was further informed that the design-bid-build methodology was the preferred method of contracting new construction projects in the public and private sectors and that it allowed the design firms to act as advocates for the Organization in monitoring the quality and the quantity of work contracted out by the construction firms.

16. Regarding the timeline for the construction of the new facility, the Secretary-General indicated in his report that, from the commencement of planning and design activities to final occupancy, the project duration is estimated to be 5.25 years. Progress will be reported annually to Member States. A summary project schedule for the new facility is contained in annex III to the report of the Secretary-General.

17. The Advisory Committee notes that the Secretary-General plans to submit a cost estimate of the project to the General Assembly in the first quarter of 2013 and that the requirements for the biennium 2014-2015 will be included in the proposed budget for the Mechanism for the biennium 2014-2015. Upon enquiry, the Advisory Committee was informed that the key decision point regarding the conceptual design, project plan and cost estimate for the General Assembly is at the second part of the resumed sixty-seventh session.

18. Upon enquiry as to possible delays to the project schedule, the Advisory Committee was informed that the Mechanism had already reviewed and rejected three possible sites and would be conducting a review of a fourth site in the near future. The Committee notes from the report of the Secretary-General that in order to ensure that the project remains on schedule, the site selection, inclusive of endorsement by the Office of Legal Affairs, the Department of Safety and Security, the Office of Central Support Services and other relevant stakeholders, must be completed by September 2012. **In the view of the Committee, and based on progress to date regarding the selection of the site, there is a risk of slippage in the proposed schedule. The Committee intends to follow up on this issue and therefore requests that an updated timeline be provided to the General Assembly at the earliest opportunity.**

V. Conclusion

19. **The Advisory Committee stresses that the report to be submitted by the Secretary-General to the second part of the resumed sixty-seventh session of the General Assembly should contain more detailed information on the key decision points regarding the conceptual design, project plan and cost estimate of the project. The Committee notes that a number of fundamental issues relating to the use of the future facility remain to be resolved. The Advisory Committee recommends that the General Assembly take note of the report of the Secretary-General, subject to the observations and recommendations set out in paragraphs 7, 8, 12 and 18 above.**